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Raymond B. Churchill, Jr.
GOTTLIEB, RACKMAN, & REISMAN
270 Madison Avenue
New York, New York 10016-0601

In re Application of	:	
BERTHON-JONES, Michael	:	
Application No.: 09/936,854	:	
PCT No.: PCT/AU00/00411	:	DECISION ON
Int. Filing Date: 05 May 2000	:	
Priority Date: 06 May 1999	:	37 CFR 1.42 PAPERS
Attorney Docket no.: 3869-24	:	
For: CONTROL OF SUPPLIED PRESSURE	:	
IN ASSISTED VENTILATION	:	

This is a decision on the submission under 37 CFR 1.42 filed on 02 January 2002

BACKGROUND

On 17 September 2001, applicants filed a Transmittal Letter requesting entry into the national stage in the United States of America under 35 U.S.C. § 371. The Transmittal Letter was accompanied by, among other materials, payment of the basic national fee.

On 02 November 2001, a Notification of Missing Requirements was mailed to applicants indicating that an oath or declaration was required.

On 02 January 2002, applicants filed a response to the Notification Of Missing Requirements which included, among other materials, a declaration executed by the surviving co-inventor and on behalf of the deceased co-inventor Peter John Deacon WICKHAM by the executor of his estate.

DISCUSSION

Pursuant to 37 CFR § 1.42, first sentence:

"In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent."

37 CFR 1.497(b)(2) states the following:

(2) If the person making the oath or declaration or any supplemental oath or declaration is not the inventor (§§ 1.42, 1.43, or § 1.47) the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person signing is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence, and mailing address of the legal representative.

The declaration submitted on 02 January 2002 identifies the deceased inventor and states his country of citizenship, former residency and mailing address, as required for compliance with 37 CFR 1.497(a)(3). The declaration is signed by the executor of the deceased inventor's estate, states his relationship to the deceased, and provides the executor's country of citizenship and residency. Accordingly, the declaration complies with the requirements of 37 CFR 1.497(b)(2).

Based on the above, it is appropriate, at this time, to accord the application status under 37 CFR 1.42.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **GRANTED**. The declaration filed on 02 January 2002 is accepted as complying with 37 CFR 1.497.

Deposit Account No. 07-1730 has been charged \$130 as the surcharge for filing the declaration later than thirty months after the priority date.

The application will be forwarded to the United States Designated/Elected Office (US/DO/EO) for further processing. The 35 U.S.C. 371 date is 02 January 2002.



Boris Milef
PCT Legal Examiner
PCT Legal Office

RMR/BM:rmr



Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459